

FILED ENTERED	RECEIVED SERVED ON COUNSEL/PARTIES OF RECORD
JAN - 4 2011	
CLERK US DISTRICT COURT DISTRICT OF NEVADA	
BY: _____	DEPUTY _____

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

GERMANDI TYLER,

*Petitioner,*

vs.

STATE OF NEVADA,

*Respondent.*

3:11-cv-00003-RCJ-RAM

ORDER

This matter comes before the Court for initial review. Germandi Tyler, a Nevada state inmate, has filed a notice of appeal seeking to appeal a decision of a state district court denying his state post-conviction petition to this Court.

Petitioner's filing is subject to multiple defects.

First, petitioner did not pay the filing fee, and he did not file an application to proceed *in forma pauperis*. Under 28 U.S.C. § 1914(a), the filing fee for "any civil action, suit or proceeding . . . whether by original process, removal or otherwise," except for an application for a writ of habeas corpus, is \$350.00. Petitioner did not file an application for a writ of habeas corpus in this Court; he filed a notice of appeal. The filing fee in this matter therefore is \$350.00. Moreover, the payment of the \$350.00 filing fee is subject to the requirements of the Prisoner Litigation Reform Act in 28 U.S.C. § 1915, including the requirement that petitioner pay the full \$350.00 fee in installments even if he currently is not able to pay the entire fee.

Second, this Court does not have jurisdiction over an action brought against the State of Nevada. The state sovereign immunity recognized by the Eleventh Amendment bars suit

1 against the State in federal court, regardless of the relief sought. . See, e.g., *Pennhurst State*  
2 *School & Hospital v. Halderman*, 465 U.S. 89, 100-01, 104 S.Ct. 900, 908, 79 L.Ed.2d 67  
3 (1984).


4 Third, this Court does not have appellate jurisdiction over a state district court.  
5 See, e.g. *Rooker v. Fidelity Trust Co.*, 263 U.S. 413, 44 S.Ct. 149, 68 L.Ed. 362 (1923);  
6 *Bianchi v. Rylaarsdam*, 334 F.3d 895, 898 (9th Cir. 2003). In filing a notice of appeal from  
7 the order of the state district court, petitioner unquestionably is seeking to invoke appellate  
8 jurisdiction by the federal district court over the state court. This Court does not have such  
9 jurisdiction.

10 Given the multiple substantial defects presented, the action will be dismissed without  
11 prejudice.

12 IT THEREFORE IS ORDERED that this action shall be DISMISSED without prejudice.

13 The Clerk of Court shall enter final judgment accordingly, dismissing this action without  
14 prejudice.

15 DATED: January 4<sup>th</sup>, 2011.

16  
17  
18   
19 ROBERT C. JONES  
United States District Judge  
20  
21  
22  
23  
24  
25  
26  
27  
28